

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 2946 of 2004

Between:

- 1 Iliyase Sait, S/o. Habib Sait,
- 2 K.Saibaba, S/o. K.S.Murthy,
- 3 K.Kumar, S/o.Late K.Sivaramaiah,
Hyderabad.

..... PETITIONERS

AND

- 1 State of Andhra Pradesh, rep. by its Principal Secretary to Government, . Home Department, Secretariat, Hyderabad.
- 2 The Director General and Inspector General of Police, A.P., Hyderabad.
- 3 A.S.Khan, Addl. Superintendent of Police,
Hyderabad.
- 4 Ch.Shyam Prasad, Addl. Superintendent of Police,
C/o.Director General and Inspector General of Police, Hyderabad.
- 5 M.Shivashanker Reddy,
C/o.Director General and Inspector General of Police, Hyderabad.
- 6 M.Sivananda Reddy,
Crime Investigation Department, Hyderabad.
- 7 P.Raghurama Rao, Addl.Superintendent of Police.
Intelligence, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of Writ of Certiorari calling for the

records relating to order of the Hon'ble A.P. Administrative Tribunal dt. 5-1-2004 in O.A.No.7233/2003 and quash the same by holding it as illegal, bad, arbitrary and contrary to the well settled principle of law and further direct the respondents to consider the case of the petitioners for promotion to the post of Superintendent of Police (Non-cadre) by taking into account their date of promotion as Deputy Superintendent of Police and Additional Superintendent of Police and by placing their names above the direct recruits recruited in the year 1990, 1994 and 1996 in the panel for the year 2003-2004 and without taking into account the fact that their names were not included in G.O.Ms.No.261 dt. 12-9-1998 by declaring the action of the respondents as illegal, bad and arbitrary.

Counsel for the Petitioner:MR.J.R.MANO HAR RAO

Counsel for the Respondents: GP FOR SERVICES I

Nuthy Ramamohan Rao,

V.R. Avula

The Court made the following :

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ORDER:(Per the Hon'ble Sri Justice G.Bikshapathy)

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This writ petition is filed by the petitioners assailing the order dated 5-1-2004 in O.A.No.7233 of 2003 on the file of the A.P.Administrative Tribunal, Hyderabad.

2. The petitioners are applicants before the Tribunal. They approached the Tribunal seeking a direction to the respondents to consider their cases for promotion to the post of Superintendent of Police (Non-cadre) by taking into account their dates of promotion in the cadre of Deputy Superintendent of Police and Additional Superintendent of Police and by placing their names above the direct recruits, recruited in the year 1990, 1994 and 1996 and without taking into account the fact that their names were not included in G.O.Ms. No.261, dated 12-9-1998.

3. The applicants who are 4 in number were initially appointed as Sub-Inspectors of Police during the years 1969-72 and were promoted as Inspectors of Police during

1976-78 and their names were included in the panel for the year 1985-86 for promotion to the post of Deputy Superintendents of Police (DSP). The Government issued G.O.Ms. No. 315 dated 16-8-1996 approving the panel for the year 1986 and the applicants were regularly promoted as Deputy Superintendents of Police with effect from 1988. Basing on the dates of their regularization in the cadre of Deputy Superintendents of Police, the applicants were promoted as Additional Superintendents of Police vide G.O.Ms.No.157, dated 16-6-1998. The grievance of the petitioners is that they have been continuing as Additional Superintendents of Police and they were not promoted to the post of Superintendents of Police in accordance with the Rules in respect of temporary posts of Superintendents of Police in Non-cadre.

4. It is their case that though the direct recruits were appointed subsequent to the recruitment of Additional Superintendents of Police and Deputy Superintendents of Police, their case has not been considered. Therefore, they seek appropriate direction.

5. It is stated in the counter affidavit filed by the Government that the applicants were promoted on adhoc basis from the cadre of Deputy Superintendent of Police to the Additional Superintendent of Police (NC) vide G.O.Ms. No. 157, Home (Police-E) Department, dated 16-6-1998. As similar matters are pending before the High Court and the Tribunal, the seniority list of direct recruits and promotees was not finalized.. It is also stated that promotion orders are going to be issued at any time.

6. The learned Tribunal after considering the matter held that G.O.Ms.No. 261 dated 12-9-1998 has become final inasmuch as the names of the petitioners did not figure in the said list, the question of consideration of their case for promotion to the posts of Superintendent of Police (non-cadre) does not arise.

7. The learned counsel appearing for the petitioners submits that even though the petitioners are seniors and their case was also considered by the Government, the Government issued G.O.261, dated 12-9-1998 and by the issuance of the said G.O., the case of the petitioners was not properly considered by the Tribunal, with the result, the directly recruited Deputy Superintendent of Police were given march over them. The learned counsel would also submit that the very intention of creating the posts of Superintendent of Police (Non cadre) is only to encourage the in service category and if the petitioners are not appointed on regular basis, the very purpose

of promotion would be frustrated.

8. We cannot accept the contentions of the learned counsel for the petitioners. Admittedly, the final seniority list of Deputy Superintendents of Police was finalized on 12-9-1998 and the petitioners have not challenged the same. It was brought to the notice of this Court that the matter relating to the final seniority list of Superintendents of Police and G.O.No.261, dated 12-9-1998 is pending before the Supreme Court.

9. Under these circumstances, we are not inclined to interfere with the order of the Tribunal. Therefore, we do not find any merit in the Writ Petition.

10. Accordingly, the Writ Petition is dismissed. No order as to costs.

G.Bikshapathy,J

P.S.Narayana,J.

11th April, 2005

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary to Government, State of Andhra Pradesh, . Home Department, Secretariat, Hyderabad.

2 The Director General and Inspector General of Police, A.P., Hyderabad.

3 A.S.Khan, Addl. Superintendent of Police,
Hyderabad.

4 Ch.Shyam Prasad, Addl. Superintendent of Police,
C/o.Director General and Inspector General of Police, Hyderabad.

- 5 M.Shivashanker Reddy,
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 - 6 M.Sivananda Reddy,
Crime Investigation Department, Hyderabad.
 - 7 P.Raghurama Rao,
Intelligence, Hyderabad.
8. 2 CCs to G.P. for Services-I, High Court Buildings, Hyderabad (OUT)
- 9 CD copies

THE HON'BLE MR JUSTICE G. BIKSHAPATHY
and
THE HON'BLE MR JUSTICE P.S.NARAYANA

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